

REMARKS

The docket number for this application has changed from “ANTH-0004” to “9516-495-999”. Please reference docket number 9516-495-999 in the future.

Claims 1-6, 8, 9, 12, 13, 15-18, 20-23, 31, 32, 34-37 and 50 are pending in the present application. Claims 1, 3, 18, 31 and 34 are amended herein. Support for the amendments to these claims are found in the claims as originally filed, and in the specification at least at page 5, lines 3-4 and page 16, lines 17-19. Claims 2, 4 and 9 have been canceled herein without prejudice to Applicant’s right to pursue the subject matter of these claims, or any unclaimed subject matter, in a related application. Upon entry of these amendments, claims 1, 3, 5, 6, 8, 12, 13, 15-18, 20-23, 31, 32, 34-37 and 50 will be pending in the application.

The Rejections Under 35 U.S.C. § 112, Second Paragraph Should Be Withdrawn

The Examiner has rejected claims 1-6, 8, 9, 12, 13, 15-17 and 50 under 35 U.S.C. § 112, second paragraph as indefinite in the recitation of the phrase “the contents of said unit being known.” Office Action at page 3. As noted above, claims 2, 4 and 9 have been canceled without prejudice. Without conceding the propriety of the Examiner’s rejection, Applicant has deleted this phrase from the pending claims. In particular, the phrase has been removed from claim 1, and, therefore, also from dependent claims 3, 5, 6, 8, 12, 13 and 15-17. This phrase has also been removed from claim 50. The rejection has therefore been rendered moot, and, as such, Applicant respectfully requests that the Examiner withdraw the rejection of the claims on this basis.

The Rejections Under 35 U.S.C. § 102 Should Be Withdrawn

The Examiner has rejected the claims under 35 U.S.C. § 102 on several different bases. Applicant addresses each in turn below.

The Rejection Over Pykett

The Examiner has rejected claims 1-6, 8, 12, 15-18, 20-23, 31, 32, 34, 35 and 37 over Pykett, U.S. Patent No. 6,548,299 (“Pykett”). Office Action at page 3. Claims 2 and 4 have been canceled herein without prejudice. Applicant traverses as follows.

The Examiner contends that Pykett discloses populations of cells comprising hematopoietic cells, which may be obtained from bone marrow, peripheral blood, umbilical cord blood, placental blood, fetal liver or lymphoid soft tissue. In particular, the Examiner contends that Pykett teaches a combination of cord blood and placental blood, which reads on the claimed cytotherapeutic units. Office Action at page 4.

Without conceding the propriety of the Examiner's rejections, Applicant has amended claims 1, 18, 31 and 34 to specify that the claimed cytotherapeutic units comprise cells from postpartum placenta perfusate. Pykett does not teach or suggest a population of cells, or a cytotherapeutic unit, comprising cells from postpartum placental perfusate. Thus, Pykett does not anticipate claims 1, 18, 31 or 34 as amended, nor the rejected claims that depend from these claims. Applicant therefore respectfully requests that the Examiner withdraw the rejection of the claims on this basis.

The Rejection Over Johnson

The Examiner has rejected claims 1-6, 8, 15-18, 20-23, 31, 32, 34, 35 and 37 as anticipated by Johnson, U.S. Patent No. 5,677,139 ("Johnson"). Office Action, page 8. In particular, the Examiner contends that Johnson teaches a combination of cord blood and placental blood, which reads on the claimed cytotherapeutic units. Office Action at page 8. Claims 2 and 4 have been canceled herein without prejudice.

Without conceding the propriety of the Examiner's rejections, Applicant has amended claims 1, 18, 31 and 34 to specify that the claimed cytotherapeutic units comprise cells from postpartum placenta perfusate. Johnson does not teach or suggest a population of cells, or a cytotherapeutic unit, comprising cells from placental perfusate. Thus, Johnson does not anticipate claims 1, 18, 31 or 34 as amended, nor the rejected claims that depend from these claims. Applicant therefore respectfully requests that the Examiner withdraw the rejection of the claims on this basis.

The Rejections Under 35 U.S.C. § 103(a) Should Be Withdrawn

The Examiner has rejected the claims under 35 U.S.C. § 103(a) on several different bases. Applicant addresses each in turn below.

The Rejection Over Pykett In View Of Ende

The Examiner has rejected claims 1, 12 and 13 over the combination of Pykett in view of Ende, *Life Sciences* 69:1531-1539 (2001). Office Action at page 13. Claims 12 and 13 require that the potent cells in the cytotherapeutic unit of claim 1 are obtained from at least two individuals, or at least five individuals, respectively. The Examiner acknowledges that Pykett does not teach cytotherapeutic units wherein the potent cells are obtained from at least two individuals or at least five individuals, but contends that Ende teaches a combination of five-milliliter samples, from each of fifteen individual cord blood samples, with two or three different other specimens. Office Action at page 15.

Without conceding the propriety of the Examiner's rejections, Applicant, as noted above, has amended claim 1 to specify that at least one source of potent cells in the claimed cytotherapeutic unit is postpartum placenta perfusate. As explained above, Pykett does not teach such a cytotherapeutic unit. Ende, which describes only units of cord blood, similarly fails to teach a cytotherapeutic unit comprising cells from postpartum placental perfusate. Thus, the combination of Pykett and Ende fails to teach or suggest the cytotherapeutic units recited in claim 1 as amended, or those of claims 12 or 13, which depend from claim 1. As such, the combination of Pykett and Ende cannot render the claims obvious.

For the reasons provided above, Applicant respectfully requests that the Examiner withdraw this rejection of claims 1, 12 and 13.

The Rejection Over Johnson In View Of Ende

The Examiner has rejected claims 1, 12 and 13 over the combination of Johnson in view of Ende. Office Action, page 16. The Examiner acknowledges that Johnson does not teach a cytotherapeutic unit wherein the potent cells are obtained from at least two individuals or at least five individuals, but contends that Ende purportedly teaches a combination of five-milliliter samples, from each of fifteen individual cord blood samples, with two or three different other samples.

Without conceding the propriety of the Examiner's rejections, Applicant, as noted above, has amended claim 1 to specify that at least one source of potent cells in the claimed cytotherapeutic unit is postpartum placenta perfusate. As explained above, Johnson does not teach such a cytotherapeutic unit. Ende, which describes only units of cord blood, similarly fails to teach a cytotherapeutic unit comprising cells from postpartum placental perfusate. Thus, the combination of Johnson and Ende fails to teach or suggest the cytotherapeutic units recited in claim 1 as amended, or those of claims 12 or 13, which depend from claim 1. As such, the combination of Johnson and Ende cannot render the claims obvious.

For the reasons provided above, Applicant respectfully requests that the Examiner withdraw this rejection of claims 1, 12 and 13.

The Rejection Over Pykett In View Of Woods

The Examiner has rejected claims 34 and 36 over Pykett in view of Woods *et al.*, (*J. Hematother. Stem Cell Res.* 9:161-173 (2000)) ("Woods"). Office Action at page 19. The Examiner acknowledges that Pykett does not teach a hematopoietic cell preparation that is frozen, but contends that Woods teaches cryopreservation of CD34⁺ cells.

Without conceding the propriety of the Examiner's rejections, Applicant, as noted above, has amended claim 34 to specify that the claimed cytotherapeutic unit comprise cells from cord blood and from postpartum placenta perfusate. As explained above, Pykett does not teach or suggest such a cytotherapeutic unit. Woods, which teaches only the cryopreservation of CD34⁺ cells, also fails to teach or suggest a cytotherapeutic unit comprising cells from postpartum placental perfusate. Thus, the combination of Pykett and Woods fails to teach or suggest the cytotherapeutic units recited in claim 34 as amended, or those of claim 36, which depends from claim 34. As such, the combination of Pykett and Woods cannot render these claims obvious.

For the reasons provided above, Applicant respectfully requests that the Examiner withdraw this rejection of claims 34 and 36.

The Rejection Over Johnson In View Of Woods

The Examiner has rejected claims 34 and 36 over Johnson in view of Woods. Office Action at page 22. The Examiner acknowledges that Johnson does not teach a hematopoietic cell preparation that is frozen, but that, but contends that Woods teaches cryopreservation of CD34⁺ cells.

Without conceding the propriety of the Examiner's rejections, Applicant, as noted above, has amended claim 34 to specify that the claimed cytotherapeutic unit comprise cells from cord blood and from postpartum placenta perfusate. As explained above, Johnson does not teach or suggest such a cytotherapeutic unit. Woods, which teaches only the cryopreservation of CD34⁺ cells, also fails to teach or suggest a cytotherapeutic unit comprising cells from postpartum placental perfusate. Thus, the combination of Johnson and Woods fails to teach or suggest the cytotherapeutic units recited in claim 34 as amended, and of claim 36, which depends from claim 34. As such, the combination of Johnson and Woods cannot render these claims obvious.

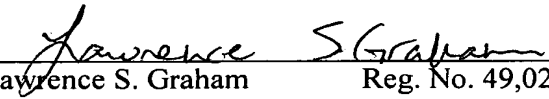
For the reasons provided above, Applicant respectfully requests that the Examiner withdraw this rejection of claims 34 and 36.

CONCLUSION

Applicant respectfully requests that the present remarks be made of record in the file history of the present application. An early allowance of the application is earnestly requested. The Examiner is invited to contact the undersigned with any questions concerning the application.

Respectfully submitted,

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